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March 26, 2013

## VIA ECF

Hon. Claire C. Cecchi, U.S.D.J.  
United States District Court  
50 Walnut Street  
Courtroom 2A  
Newark, New Jersey 07102

**Re: Grynberg, et al. v. Goldman Sachs Group, Inc., et al**  
**Civil Action No. 2:12-cv-03525-CCC-MCA**

Dear Judge Cecchi:

We represent Defendant The Goldman Sachs Group, Inc. ("GS Group") in the above-captioned action. We write in connection with the Plaintiffs' unfounded petition for an order – in aid of a proposed appeal of this Court's recent ruling transferring this matter to the United States District Court for the Southern District of New York – preliminarily enjoining this Court from closing this already-closed case and transferring the file to the New York court. We respectfully request that the Court decline to sign Plaintiffs' proposed Order to Show Cause.

As a threshold matter, the well-established "general rule is that orders transferring venue are not immediately appealable." *Carteret Sav. Bank, F.A. v. Shushan*, 919 F.2d 225, 228 (3d Cir. 1990); *see also Nascone v. Spudnuts, Inc.*, 735 F.2d 763, 764 (3d Cir. 1984) ("For many years this court-and virtually every other court-has held that such orders transferring venue are not appealable."). Accordingly, the relief requested by Plaintiffs could not possibly facilitate an appeal.

Moreover, even were the transfer order appealable, Plaintiffs have articulated no basis to challenge the ruling. Plaintiffs' sole stated basis for their proposed appeal is that this Court

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purportedly overlooked Plaintiffs' "proffered evidence . . . demonstrating Goldman Sach Group [sic] maintains a significant presence in New Jersey" by having an office in Jersey City, New Jersey. (Plaintiffs' Letter at 3). In fact, this Court expressly considered the fact that GS Group "maintains offices in Princeton and in Jersey City, New Jersey" and properly concluded that this fact, standing alone, was insufficient to warrant exercising jurisdiction in a case that had no discernible relationship to this District. (March 22, 2013 Opinion at 6) (citing Declaration of Matthew E. Tropp, dated August 17, 2012). It is disingenuous for Plaintiffs to suggest otherwise.

Nor is there any basis for Plaintiffs' claim that they will suffer harm because the "New Jersey District Court will no longer have jurisdiction and New Jersey law may not apply." (Plaintiffs' Letter at 3). New Jersey law is no more likely to apply under New Jersey's choice of law rules than New York's, given this Court's correct finding that "[t]he Complaint lacks any allegations that would even hint at the possibility that a substantial part of the events or omissions occurred in New Jersey." (March 22, 2013 Opinion at 7). Moreover, Plaintiffs have demonstrated no cognizable harm in the application of different choice of law rules. See, e.g., *Jacques v. Hyatt Corp.*, No. C 11-05364 WHA, 2012 WL 3010969, at \*5 (N.D. Cal. July 23, 2012) (rejecting argument that litigant could suffer prejudice where substantive law of different jurisdiction might be chosen); *Everhart v. Children's Hosp.*, Civil Action No. 08-cv-00605-EWN-MJW, 2008 WL 2945497, at \*8 (D. Colo. July 25, 2008) ("Plaintiffs have shown no prejudice to themselves arising from the substantive law that might control their claims pursuant to Colorado's choice-of-law rules as opposed to that which might control their claims pursuant to New Mexico's choice-of-law rules.").

For these and other reasons (including the inherent delay in enabling the New York court to dispose of their claims), Plaintiffs' request for an Order to Show Cause to facilitate an unavailable and spurious appeal is entirely unwarranted. If anything, the request should invite close scrutiny as to whether it has a good faith basis under Federal Rule of Civil Procedure 11(b) and 28 U.S.C. § 1927. GS Group is at this Court's disposal in the event the Court wishes formal briefing or argument as to the Order to Show Cause or Plaintiffs' request for a preliminary injunction.

Respectfully submitted,

/s/ Daniel D. Barnes

DANIEL D. BARNES

c: Raymond Marelic (via ECF)